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SHAWN DAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAWN DAY, individually and as successor in
interest to the Estate of Steffen Matthew Day,

Plaintiff,

vs.

COUNTY OF CONTRA COSTA, JOSHUA
PATZER, WARREN RUPF, and Does 1
through 50, et al.,

Defendants.

Case No. C07-4335-PJH

**DECLARATION OF SONJA MARTIN IN
OPPOSITION TO DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT / SUMMARY
ADJUDICATION**

Date: September 10, 2008
Time: 9:00 a.m.
Judge: Honorable Phyllis J. Hamilton
Dept: Courtroom 3, 17th Floor (SF)

I, SONJA MARTIN, DECLARE:

1. On August 14, 2006, I resided at 37 Dolphin Drive, in Pittsburg, California. The south property line of my lot adjoins the north property line of 26 Galleon Way where the shooting of Steffen Day occurred.

2. At approximately 11:00 pm on August 14, 2006, my husband and I got into bed. I stayed up watching television while my husband went to sleep.

3. At approximately 1:56 am, I heard loud noises coming from outside the house from the direction of the backyard of 26 Galleon Way. At first, I thought I heard two shots. I woke my husband and told him of the noises and that something was going on outside. I did not hear any voices at this time. As soon as my husband was awake, I thought I heard two more shots.

1 4. I was interviewed by police later in the morning on August 15, 2006. I told
2 investigators what I thought I had heard.

3 5. Later in the evening on August 15, 2006, my husband and I went over to 26
4 Galleon Way to inspect the scene of the shooting. I observed that the side yard gate had
5 been broken off its hinges and that an air-conditioning unit protruded from the wall adjacent to
6 the gate and fence. After discussing the incident with my husband and inspecting the scene, I
7 believe that the noises I heard were those of the gate breaking down and possibility someone
8 running into the air-conditioning wall unit. I believe the last loud bang that I heard was a
9 gunshot.

10 6. I did not hear any voices prior to the shooting. I heard someone yelling "get
11 down" after what I believe was the gunshot.

12 7. My husband and I contacted police to advise them of our conclusions.

13 I declare under the penalty of perjury under the laws of the State of California and the
14 United States that the foregoing is true and correct and that I could competently testify in
15 person as to these facts and opinions.

16 Executed at Pittsburg, California on August 18, 2008.

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19 Sonja Martin

20 SONJA MARTIN
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1 **PROOF OF SERVICE**

2 **RE: Shawn Day, et al. v. County of Contra Costa, et al.**
 3 **United States District Court Case No. C07-4335-PJH**

4 I am a citizen of the United States and am employed in the County of Contra
 5 Costa, State of California. I am over eighteen (18) years of age and not a party to the
 6 above-entitled action. My business address is 2121 North California Blvd., Suite
 1020, Walnut Creek, CA 94596. On the date below, I served the following documents
 in the manner indicated on the below-named parties and/or counsel of record:

7 **DECLARATION OF SONJA MARTIN IN OPPOSITION TO DEFENDANTS' MOTION**
 8 **FOR SUMMARY JUDGMENT / SUMMARY ADJUDICATION**

- 9 ☐ **U.S. MAIL**, with First Class postage prepaid and deposited in sealed envelopes
 10 at Walnut Creek, California.
 11 ☐ **ELECTRONICALLY**, I caused said documents to be transmitted using ECF as
 12 specified by General Order No. 45 to the following parties.
 13 ☐ **FACSIMILE TRANSMISSION** from (925) 947-1131 during normal business hours,
 14 complete and without error on the date indicated below, as evidenced by the
 15 report issued by the transmitting facsimile machine.
 16 ☒ **Hand-Delivery Via Courier**
 17 **Other: OVERNIGHT DELIVERY.** On the date indicated below, I placed a true and
 18 correct copy of the aforementioned document(s) in a sealed envelope and/or
 19 package designated by **Federal Express Priority Overnight**, individually
 20 addressed to the parties indicated below, with fees fully prepaid, and caused
 21 each such envelope and/or package to be deposited for pick-up on the same
 22 day by an authorized representative of **Federal Express** at Walnut Creek,
 23 California, in the ordinary course of business.

18 **For Defendants**

19 James V. Fitzgerald, III
 20 McNamara, Dodge, Ney, Beatty, Slattery & Pfalzer LLP
 1211 Newell Avenue
 Walnut Creek, CA 94596
 Tel: (925) 939-5330
 21 Fax: (925) 939-0203

23 I declare under penalty of perjury under the laws of the State of California,
 24 and the United States of America, that the foregoing is true and correct and that I am
 25 readily familiar with this firm's practice for collection and processing of documents for
 mailing with the U.S. Postal Service.

26 Dated: August 20, 2008

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 28 SHANNON M. BOWERS